IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 210 OF 1998

Shri Vivek Goenka
Managing Editor
"Loksatta" having his office
at Express Towers, Nariman Point,
Bombay- 400 021 ..Applicant
(Org.Accused No.1)

Vs.

1. State of Maharashtra
2. Rajabhau Damodar Raikar ..Respondents
(Resp.No.2 Org. Complainant)

Mr. S.R. Chitnis, Senior Counsel with Ms.Poorvi Kamani with Mr. Vinayak Shete for applicant.

Ms. R.M. Gadhvi, APP for respondent no.1.

Mr. B.D. Joshi for respondent no.2.

CORAM: B.H. MARLAPALLE, J.

Date : January 25, 2007.

ORAL JUDGMENT:

1. This Criminal Application filed under Section 482 of the Cri.P.C. prays for quashing and setting aside the process issued against the applicant by the learned Judicial Magistrate, First Class at Pune in Criminal Case No.1912 of 1997 and while admitting this application, by way of interim relief, the proceedings

in the said Criminal Case were stayed by this court vide order dated 6/3/1998.

2. The applicant is the Chairman of the Indian Express Group and also Managing Editor of a Marathi daily by name "Loksatta". The said newspaper has more than one editions, as at present, namely, Mumbai, Nagpur, Pune, Ahmednagar and Delhi and each of these editions has a separate Resident Editor. All the editions have at the apex level an Editor over and above the individual Resident Editors. On or about 10/12/1997 the applicant received the summons (without a copy of the complaint) to appear on 19/12/1997 before the learned JMFC, A.C. Court, at Pune in Criminal Case No. 1912 of 1997. The said case was filed by the present respondent no.2 on or about 16/7/1997 and on verification, the learned Magistrate had issued process under Section 500 read with Section 34 of IPC.

3. It was stated in the said complaint by the respondent no.2 that on 20/5/1997 a news item was

published in the Pune Edition of "Loksatta" newspaper alleging defamatory and malicious imputations against the complainant and by the said publication the accused had acted to defame him. The present applicant was impleaded as accused no.1 while accused nos.2 to 4 were arraigned in the said complaints on the grounds that accused no.2 Shri George Varghese was the Printer and Publisher, accused no.3 Shri Aroon Tikekar was the Editor of all editions and accused no.4 Shri Anil Takalkar was the Resident Editor of Loksatta, Pune Edition and that by the said publication they had committed an offence punishable under Sections 500 to 502 read with Section 34 of IPC. As noted earlier, the learned Magistrate, on verification of the complaint, was pleased to issue process only for the offence punishable under Section 500 read with Section 34 of IPC. The accused nos.2 to 4 had filed an application at Exh.91 in Criminal Case No.1912 of 1997 praying for the same relief, namely, the recall of the order of process and the said application came to be rejected on 16/12/2000. Consequently, the accused nos.2 to 4 filed Criminal Revision Application No.18 of 2001 before the Sessions Court at Pune and the same was allowed by the learned

9th Additional Sessions Judge at Pune vide his judgment and order dated 2/1/2002. This order is a subject matter of challenge in Writ Petition Nos.974 and 975 of 2002 and the pendency of these petitions does not detain me from deciding this application on its own merits.

4. In support of his prayer for quashing the process order, the applicant states that he being the Chairman and Managing Editor was and is not responsible for the day to day reporting in the local editions and the same is done with the full knowledge and under the supervision of the Resident Editor at the local levels and the Editor at the Corporate level for all the editions. He further states that he is not responsible for the day to day reporting of news in any of the editions of Loksatta and the same function is that of the Resident Editor or Editor as the case may be. As he has no knowledge of the reports published in the local editions, he could not have been impleaded as an accused in the complaint filed by the respondent no.2. He has placed reliance on the provisions of Section 7 of the Press and Registration of Books Act, 1867 (the Act of short) in

support of his contentions that the person whose name was printed as an Editor or Resident Editor is responsible for the publication of news in the daily edition of the newspaper and a presumption has to be drawn that when the name of the Editor is specifically mentioned, such editor/resident editor is the person solely responsible and not the Managing Editor. In support of these arguments reliance has been placed on the judgment in the case of K.M. Mathew vs. State of Kerala and anr. **[AIR 1992 SC 2206]** (hereinafter referred to as Mathew-I). Even if the name of the Editor is printed in the newspaper there is no presumption against him under Section 7 of the Act and for the learned Magistrate to take cognizance of the offence against the Chief Editor, there must be positive averments in the complaint of knowledge of the objectionable character of the matter. In the absence of any positive averments against the Chief Editor, the Magistrate was not justified in issuing the order of process and the said order has resulted in the abuse of the judicial process. It is also alleged that the order of issuance of process was passed without application of mind and in a casual manner. The applicant has stated that following

Criminal Applications were filed against the Managing Editor and/or Chief Editor and the proceedings came to be stayed:-

(a) Criminal Application No. 2548/93
(b) Criminal Application No. 1755/93
(c) Criminal Application No. 602/93
(d) Criminal Application No. 907/95
(e) Criminal Application No. 1562/95
(f) Criminal Application No. 191/96
(g) Criminal Application No. 192/96
(h) Criminal Application No. 184/96

5. During the course of the arguments, Mr.Chitnis the learned Senior Counsel has invited my attention to the provisions of Section 499 of IPC and more particularly to the Fourth Exception thereunder, which reads as under:-

> "Fourth Exception- Publication of reports of proceedings of courts. - It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings."

. It was contended by Mr. Chitnis that so long as publication of news is the substantially true version of the suit filed by Ms.Yogeeta Bankar impleading the complainant as one of the defendants, the fourth exception to Section 499 of IPC would operate and there will be no case for defamation. In short, it is the contention of Mr.Chitnis that so long as reported case is a substantially true version of the court proceedings, the same is excepted and thus protected from the allegations of defamation. In this regard he has relied upon the following observations made in the case of K. Narendra and anr. vs. Amrit Kumar, Advocate **[1973 Cri.L.J. 1637]** made by the learned Single Judge of the Rajasthan High Court in para 7:-

> "7. From the above authorities it is manifestly clear that absolute privilege, which the accused are entitled to claim under fourth exception to Section 499, I.P.C., is not confined only to judgments and orders of Courts, but it stretches to complaints or pleadings made by parties concerned. If the

> complaint contained anything which was not relevant or should not have been contained therein, it would not for that reason have caused the proceedings to lose their judicial character or their protection by absolute privilege."

6. The learned Senior Counsel also placed reliance on the order of this court in Criminal Application No. 192 of 1996 filed by the present applicant. By the said order dated 6/1/2003 a process issued against the present applicant by the learned Metropolitan Magistrate in Criminal Case No.202/S/95 for the offences punishable under Sections 500 and 501 of IPC came to be quashed and set aside by relying upon the law laid down in the case of Mathew-I (Supra).

7. Mr. Joshi the learned counsel appearing for the respondent no.2-original complainant submitted that the complainant made out a prima facie case before the learned JMFC at Pune for passing the order for issuance of process and it was stated in the complaint that all of them i.e. accused nos.1 to 4

were responsible for publication of the news report and without verifying the veracity of such allegations made by the plaintiffs (accused nos.5 and 6), the news item was published to assist the accused nos.5 and 6 and as per their statements and interviews with the said accused on 20/5/1997. He also stated in the complaint that the accused nos.1 to 4 were aware that by such publication of the news, he would be defamed. As per him substantially true reporting is not sufficient and it is necessary for the newspaper to verify the correctness of allegations made in the plaint before it is reported in the newspaper. It was also submitted that if the defendants' reply was not available before the court concerned in the suit proceedings denying the allegations made in the plaint, it was necessary for the accused nos.1 to 4 to contact the complainant and obtain his side of the story or his reply to the said allegations. Mr. Joshi also referred to the judgment in the case of K.M. Mathew vs. K.A. Abraham and ors. **[(2002) 6 SCC 670]** (hereinafter referred to as Mathew-II) in support of his contentions that the law laid down in Mathew-I in the year 1992 is no more a good law and a presumption against the Editor or Resident Editor

cannot be drawn unless it is specifically rebutted and this rebuttal can be by only leading evidence. Mr. Joshi, therefore, urged that the applicant-accused must face trial and if the evidence adduced before the trial court supports his contention that he was not responsible for the day to day reporting in the newspaper, he will be absolved and will be discharged,

but prosecution he must face.

8. During the course of arguments and with the assistance of the learned counsel for the respective parties I have gone through the subject news item published on 20/5/1997 in the Pune Edition of Loksatta. It is admitted that out of the six paragraphs of the said news, the first three paragraphs do not make any case of defamation. However, the complainant emphatically states that the remaining three paragraphs and more particularly paragraphs 5 and 6 make out a clear case of defamation and unless the concerned Reporter or the Editor had obtained the complainant's reply or his version to those allegations, it was not permissible for the newspaper to publish such a news, lest he invited prosecution for defamation. These two paragraphs read

as under:-

> "In her earlier Application, Yogita Bankar had clearly mentioned that Shri Raikar used to demand Rs.700/- per day from her and that as she was not in a position to fulfil his demand, by misusing his powers, he removed her handcart.
>
> In the Affidavit filed in the said matter, Yogita Bankar has stated that Rambhau Raikar had so far taken Rs.94 thougsand 100 from her for getting her Licence Permanent and that when he demanded more money for the very job, as she refused to concede to his demand, he seized her handcart and shut-down her business."

9. I have gone through the plaint in Civil Suit No.443 of 1997, a copy of which has been placed on record and I have no doubt in my mind that the press report, by which the complainant is aggrieved, in its entirety is a substantially true version of the

averments made in the plaint and in the application filed for initiating an action of contempt under Order XXXVIIII Rule 2-A of C.P.C. Whether those averments were correct or not is not an arena in which the Reporter or Editor is required to go in, if regards be had to the language of fourth exception below Section 499 of IPC.

10. In the instant case, the applicant has raised two substantial issues in support of his plea to quash and set aside the order of process, namely,

(a) Section 7 of the Act draws a presumption against the Editor or Resident Editor being the sole in-charge and responsible for the day to day reporting and, therefore, so long as the Editor and/or Printer and Publisher has impleaded as accused, the Managing Editor cannot be made to face prosecution in such a complaint of defamation, and

(b) So long as the reporting in the newspaper is substantially a true version of the court proceedings or a judgment/order of a court of

law or tribunal, it would not amount to defamation within the meaning of Section 499 in view of the fourth exception thereunder.

. If the applicant succeeds on the first point, I need not venture to decide the second issue, which in any case is awaiting adjudication in Writ Petition Nos.974 and 975 of 2002.

11. Section 7 of the Act reads as under:-

"7. Office copy of declaration to be prima facie evidence - In any legal proceeding whatever, as well civil as criminal, the production of a copy of such declaration as is aforesaid, attested by the seal or some Court empowered by this Act to have the custody of such declarations, or, in the case of the editor, a copy of the newspaper containing his name printed on its as that of the editor shall be held (unless the contrary be proved) to be sufficient evidence, as against the person whose name shall be subscribed to such declaration, or printed on such newspaper, as

the case may be that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be) of every portion of every newspaper whereof the title shall correspond with the title of the newspaper mentioned in the declaration, or the editor of every portion of that issue of the newspaper of which a copy is produced."

. Section 1(1) of the Act defines the term "editor" which means the person who controls the selection of the matter that is published in a newspaper. The term "newspaper" means any printed periodical work containing public news or comments on public news. Section 5 of the Act prescribes certain Rules regarding the publication of newspapers. It says that the newspaper shall contain the names of the owner and editor thereof printed clearly on such copy and also the date of its publication. Subsection 2 of Section 5 further says that the printer and the publisher of every such newspaper shall appear in person or by agent authorised in this behalf in accordance with rules made under section 20, before a

District, Presidency or Sub-divisional Magistrate and shall make declaration that he is the printer or publisher or printer and publisher of that newspaper. Whereas Section 8A of the Act provides that if any person, whose name has appeared as editor on a copy of a newspaper, may, within two weeks of his becoming aware that his name has been so appeared, shall appear before a District, Presidency or Sub-Divisional Magistrate and make a declaration that his name was incorrectly published in that issue as that of the editor thereof and the Magistrate empowered in that behalf, after making such inquiry or causing such inquiry to be made as he may consider necessary, is satisfied that the said person is not an editor of the newspaper, the Magistrate may issue certificate to that effect and Section 7 will not apply to him.

12. In the case of Mathew-I, in para 9 and 10, a Division Bench of the Apex Court stated thus:-

> "9. In the instant case there is no averment against the Chief Editor except the motive attributed to him. Even the motive alleged is general and vague. The complainant

seems to rely upon the presumption under S.7 of the Press and Registration of Books Act, 1867 ('the Act'). But S. 7 of the Act has no applicability for a person who is simply named as 'Chief Editor'. The presumption under S.7 is only against the person whose name is printed as 'Editor' as required under S.5(1). There is a mandatory (though rebuttable) presumption that the person whose name is printed as 'Editor' is the editor of every portion of that issue of the newspaper of which a copy is produced. Section 1(1) of the Act defines 'Editor' to mean the person who controls the selection of the matter that is published in a newspaper. Section 7 raises the presumption in respect of a person who is named as the Editor and printed as such on every copy of the newspaper. The Act does not recognise any other legal entity for raising the presumption. Even if the name of the Chief Editor is printed in the newspaper, there is no presumption against him under S.7 of the Act.....

10. It is important to state that for a Magistrate to take cognizance of the offence as against the Chief Editor, there must be positive averments in the complaint of knowledge of the objectionable character of the matter. The complaint in the instant case does not contain any such allegation. In the absence of such allegation, the Magistrate was justified in directing that the complaint so far as it relates to the Chief Editor could not be proceeded with. To ask the Chief Editor to undergo the trial of the case merely on the ground of the issue of process would be oppressive. No person should be tried without a prima facie case. The view taken by the High Court is untenable. The appeal is accordingly allowed. The order of the High Court is set aside."

. However, in Mathew-II, it was noted by another Division Bench of the Apex Court that,

(a) even if a person's name is printed as editor in the newspaper, he can still show

that he was not really the editor and had no control over the selection of the matter that was published in the newspaper;

(b) section 7 only enables the court to draw a presumption that the person whose name was printed as editor was the editor of such newspaper, if the publication produced in the court shows to that effect;

(c) there is no statutory immunity for the Managing Editor, Resident Editor or Chief Editor against any prosecution for the alleged publication of any matter in the news paper over which these persons exercise control.

. In para 20 and 22 in Mathew-II (Supra), their Lordships stated thus:-

"20. The provisions contained in the Act clearly go to show that there could be a presumption against the Editor whose name is printed in the newspaper to the effect that he is the Editor of such publication and that he

is responsible for selecting the matter for publication. Though, a similar presumption cannot be drawn against the Chief Editor, Resident Editor or Managing Editor, nevertheless, the complainant can still allege and prove that they had knowledge and they were responsible for the publication of the defamatory news item. Even the presumption under Section 7 is a rebuttable presumption and the same could be proved otherwise. That by itself indicates that somebody other than editor can also be held responsible for selecting the matter for publication in a newspaper.

22. In the instant appeals, the complainant in each case has alleged that these appellants who are either Managing Editor, Chief Editor or Resident Editor had knowledge and were responsible for publishing defamatory matter in their respective newspaper publications. Moreover, in none of these cases, the "Editor" had come forward and pleaded guilty to the effect that he was the

> person responsible for selecting the alleged defamatory matter published. It is a matter of evidence in each case. If the complaint is allowed to proceed only against the "Editor" whose name is printed in the newspaper against whom there is a statutory presumption under Section 7 of the Act, and in case such "Editor" succeeds in proving that he was not the "Editor" having control over the selection of the alleged libellous matter published in the newspaper, the complainant would be left without any remedy to redress his grievance against the real culprit...."

12. It is thus clear that in Mathew-II, a further clarification has been given on scanning the provisions of Section 7 of the Act and more particularly that the presumption against the editor is rebuttable which implies that by leading evidence an editor could prove that though his name was mentioned or printed as editor on the newspaper, he was, in fact, not responsible for the day to day reporting in the news paper or the articles published

and someone else was responsible and in such a situation if the Managing Editor or the Chief Editor is allowed to be discharged at the threshold by setting aside the order of issuance of process, the complainant would be left with no remedy and the complaint would be frustrated.

13. However, in the instant case, as noted earlier, the accused nos.2 to 4 had filed an application (Exh.91) and prayed for recall of the process. A copy of the said application has been placed before me. It was filed on behalf of accused nos.2 to 4 and all of them had verified. The averments made in the said application in paras 1 and 2 read as under:-

> "1. That the complainant abovenamed has filed the present complaint against the applicants as well as other accused persons for alleged defamation under Sections 500, 501 and 502 read with Section 34 of IPC, 1860. At the relevant time applicant/accused no.2 was the printer and publisher of "Loksatta", Pune edition, Applicant/accused no.3 the Editor of

"Loksatta" all editions and applicant/accused no.4 the Resident Editor of a Marathi language Daily "Loksatta", Pune edition and, therefore, the editor of the Pune Edition of Loksatta. Pune edition has a wide circulation in Pune.

(emphasis supplied)

2. On 20/5/1997 a news report under the head, "Contempt of Court Claim" filed against the Director of S.T. Corporation was published in the daily newspaper "Loksatta", Pune edition. This particular news report was based on two applications made by one Ms. Yogita Pandurang Bankar (Accused no.4 in the present complaint) against Maharashtra State Road Transport Corporation (MSRTC) and other defendants in Regular Civil Suit No.443 of 1997 filed in the Court of Ld. Civil Judge, Junior Division, Pune. This application was filed by her on 20.04.99....."

14. It is thus clear that the accused nos.2 to 4

had specifically stated on oath their responsibility for the newspaper "Loksatta" and its Pune edition. The accused no.2 stated on oath that he was the printer and publisher of the Pune edition of Loksatta whereas the accused no.3 stated that he was the Editor of all the editions of Loksatta and accused no.4 stated that he was the Resident Editor of Loksatta, Pune edition and, therefore, the editor of the Pune edition of Loksatta. Prima facie, there was thus no scope for the accused nos.2 to 4 to rebut their status with reference to the Pune edition of Loksatta and within the meaning of Section 7 of the Act. In fact, when they approached the revision court the accused nos.2 to 4 reiterated these contentions regarding their respective responsibilities for the Pune edition of Loksatta as well as the accused no.3 claiming himself to be responsible for all the editions of the Marathi Daily "Loksatta" and, therefore, the law laid down in Mathew-II (Supra) cannot be made applicable to this case.

15. On the other hand, the facts of this case could be compared with the facts in the case of State of Maharashtra vs. Dr.R.B. Chowdhary and ors. **[AIR**

1968 SC 110]. The Public Prosecutor, West Khandesh, Dhulia with the previous sanction of the State Government filed a complaint against four persons who were members of the Editorial Board of a Maharathi Weekly named "Maharashtra" under Section 500 of the Indian Penal Code alleging that in the issue of Maharashtra dated 30/10/1959 an article was published which tended to the defame one M.A. Deshmukh I.A.S. Collector and District Magistrate, West Khandesh in respect of his conduct in the discharge of his public functions. The editor of the said Weekly was one Mr.Madane and it was registered as a newspaper and a declaration in Form 1 under Article 3 of the Act was also filed. The copy of the Weekly in which the alleged documentary article appeared be over the name of Mr. Madane as the editor, printer and publisher of the newspaper. It also showed on the front page the Editorial Board consisting of the three accused persons. The issue considered by the Apex Court was whether the members of the Editorial Board other than the Editor can be prosecuted for the defamatory article. At the first instance, the Additional Sessions Judge held that there was a prima facie case against Editorial Board members and that they were the

makers of the alleged article published in the Weekly. However, it was pointed out that the editor was one Mr.Madane and when he was questioned under Section 342 of Cr.P.C. he unequivocally admitted that the alleged defamatory article had been written by him and his name was shown as editor in the declaration under Section 5 of the Act. In that regard their Lordships, in para 7 observed as under:-

> "7. The term 'editor' is defined in the Act to mean a person who controls the selection of the matter that is published in a newspaper. Where there is mentioned an editor as a person who is responsible for selection of the material, Section 7 raises the presumption in respect of such a person. The name of the person printed on the copy of the newspaper and in the present case the name of Madane and admittedly was printed as the Editor of the Maharashtra in the copy of the Maharashtra which contained the defamatory article. The declaration in Form I which has been produced before us shows the name of Madane not only as the printer and publisher

but also as the editor. In the our opinion of the presumption will attach to Madane as having selected the material for publication in the newspaper. It may not be out of the place to note that Madane admitted that he had written this article. In the circumstance not only the presumption cannot be drawn against the others who had not declared themselves as editors of the newspaper but it is also fair to leave them out because they had no concern with the publishing the article in question....."

. The apex court in the case of Haji C.H. Mohammad Koya vs. T.K.S.M.A. Muthukoya **[AIR 1979 SC 154]**, after considering the Preamble to the Act stated as under:-

"It would thus appear that the object of the Press Act was to regulate printing presses and newspapers in order to preserve copies of newspapers and books. Moreover, in order to avoid multiplicity of suits and uncertainties

of liabilities, it was considered necessary to choose one of the persons from the staff and make him liable for all the articles or matters published in the paper so that any person aggrieved may sue only the person so named under the provisions of the Press Act and is relieved from the necessity of making a fishing or roving enquiry about persons who may have been individually responsible for the offending matters published in the paper.....

It would thus be clear that under Section 5(1) of the Press Act the legal requirement is that every newspaper shall contain the name of the owner and the editor printed clearly, so that there is no confusion in the minds of the people on this account. Sub-section (2) of S.5 of the Press Act makes it incumbent on the printer and the publisher to appear before the authorities mentioned in that section and make a declaration.....

The intention of the rule is merely to clarify

who the editor of the paper is and once this is shown then there is a substantial though not a literal compliance of the rule. Secondly, the Press Act does not recognise any other legal entity except the editor in so far as the responsibilities of that office are concerned. Therefore, mere mention of the name of the Chief Editor is neither here nor there, nor does it in any way attract the provisions of the Press Act particularly Section 7. Thirdly, it is not even pleaded in the petition, much less proved, that the appellant being the Chief Editor, it was part of his duty to edit the paper and control the selection of the matter that was published in the newspaper which in fact has been demonstrably disproved by the appellant. Thus, we are unable to accept the finding of the High Court that any presumption under S.7 of the Press Act can be drawn against the appellant.....

The appellant was no doubt shown as Chief Editor in the issues of the Chandrika but the

Press Act as held by us does not recognise any such legal entity and the only person who is recognised by the Press Act is the editor who in this case was P.W.2 and who had admittedly filed the declaration under Section 5 (2) of the Press Act."

16. As noted earlier, in the instant case, the accused nos.2 to 4 have stated on oath that each one of them was responsible of either a printer and publisher or an editor in respect of Pune edition of the Loksatta in which the subject news item was published. Not only this, but in the application it was further clarified as under:-

"Immediately on the next day of publication of the impugned report a clarification submitted by the MSRTC Authorities was promptly and prominently published in the Daily "Loksatta", Pune edition issue dated 21.05.97 under the heading (translated as) "Stay Granted to Order Regarding Swargate Stand". In this clarification the MSRTC Authorities clarified

the status regarding the order passed by the Hon'ble Court and their views about the action taken by Ms. Bankar, Accused No.5 herein.....

The applicants strive towards balanced, fair and accurate reporting and towards that end had published promptly a clarification issued by the MSRTC Authorities in the issue of "Loksatta", Pune dated 21.05.97 and, therefore, the applicants were bonafide in publishing the impugned newsreport....."

. In any case, if the accused nos.2 to 4 having accepted their responsibility on oath before the trial court as well as the court of revision, the presumption under Section 7 of the Act has to be, prima facie, drawn against the Resident Editor i.e. accused no.4, the printer and publisher accused no.2 and/or the editor of all the editions of Loksatta i.e. accused no.3. On the face of these averments made on oath by the accused nos.2 to 4, the law laid down in the case of Mathew-I will be squarely applicable in the instant case and, therefore, it will have to be

held that the responsibility for the publication of the newspaper on 20/5/1997 would be that of the Resident Editor, Printer and Publisher and/or the Editor of all editions of Loksatta and the final outcome of the complaint will be subject to the evidence that may be adduced before the trial court, so far as the first issue under consideration in this application is concerned. There is no scope for the Resident Editor and/or the Editor to rebut the presumption contemplated under Section 7 of the Act in this case and therefore the ratio in the case of Mathew-II is not applicable. As far as the applicant is concerned, in view of the presumption drawn under Section 7 of the Act against accused nos.2 to 4 or any one of them, there is no case for the present applicant to face the trial and hence it is not necessary to answer the second issue as framed earlier for considerations. Undoubtedly, the decision of the second issue have to be awaited in the pending Writ Petitions.

17. In the premises, this application succeeds and the same is hereby allowed. Rule is made absolute in

terms of prayer clause (a) so far as it relates to the present applicant only. It is also made clear that the observations made in this judgment will have no bearing on the pending petitions.

(B.H. Marlapalle,J.)